

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

VERNON DOUGLAS,	:	CIVIL NO. 1:CV-09-1188
Petitioner	⋮	⋮
v.	⋮	⋮
RICARDO MARTINEZ,	⋮	⋮
Respondent	⋮	⋮

M E M O R A N D U M

Before the court is a report and recommendation of the magistrate judge to whom this matter was referred. Petitioner has filed objections to the report and recommendation. Respondent has filed a response to the objections and Petitioner has filed a reply. The matter is ripe for disposition.

Petitioner claims that the Bureau of Prisons improperly set a payment schedule for the \$500 felony assessment imposed by the sentencing court. After a thorough review of the case law the magistrate judge first found that such a claim is not cognizable under 28 U.S.C. § 2241. The magistrate judge further found that there was no merit to Petitioner's claim that the sentencing court is required to set a payment schedule for the special assessment imposed. The magistrate judge also found that the Inmate Financial Responsibility Program was constitutional, citing *Pinet v. Grondolosky*, 2009 WL 2942699 *1 (3d Cir.).

Petitioner's objections restate the claims in his petition and raise additional claims not raised in his petition, i.e. a challenge to the dismissal of his civil rights suit (No. 1:CV-08-0140 (M.D. Pa.)) and a claim that the five-year statute

of limitation period during which the special assessment may be collected has expired.

The current action is not a proper vehicle to challenge the disposition of a prior law suit. Petitioner filed an appeal in case number 1:CV-08-0140 on June 29, 2009 and that matter remains with the appellate court.

As to the statute of limitations issue, the Respondent notes that Petitioner's initial sentence was imposed on May 18, 2006 and the statute of limitations would expire in May of 2011. However, Petitioner was resentenced on October 6, 2008. The statute of limitations would expire in October of 2013; therefore, Petitioner remains obligated to make payments until October of 2013.

Petitioner's claims are without merit. The court will adopt the report and recommendation of the magistrate judge. An appropriate order will be issued.

s/Sylvia H. Rambo
United States District Judge

Dated: January 21, 2010.

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O R D E R

In accordance with the accompanying memorandum, **IT IS HEREBY
ORDERED THAT:**

- 1) The court adopts the report and recommendation of Magistrate Judge Blewitt.
- 2) The petition for writ of habeas corpus is denied with prejudice.
- 3) The Clerk of Court shall close the file.

— s/Sylvia H. Rambo —
United States District Judge

Dated: January 21, 2010.